

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

UNITED STATES OF AMERICA, Plaintiff, vs. NICHOLAS JAMES MORGAN- DEROSIER, Defendant.	Cr. No. 3:22-cr-5 DEFENDANT'S MOTION TO CONTINUE TRIAL
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Comes now Nicholas James Morgan-Derosier, by and through his attorney, Assistant Federal Public Defender Christopher P. Bellmore, and moves the Court for its Order extending the trial setting of August 1, 2023, as well as all related pretrial deadlines.

As grounds, Defendant states:

1. Defendant made his initial appearance on December 16, 2021, and was arraigned on January 26, 2022, on an Indictment, charging the Defendant with Receipt and Distribution of Child Pornography, Transportation of Child Pornography, 6 counts of Possession of Materials Containing Child Pornography, Transportation of a Minor, Travel with Intent to Engage in Illicit Sexual Activity, in violation of 18 U.S.C. §§ 2252A(a)(1), 2252A(a)(2)(A), 2252A(a)(5)(B), 2252A(b)(1), 2252A(b)(2), 2423(a), and 2423(b).

2. The Court entered its Criminal Pretrial Order and Jury Trial Notice on January 26, 2022, setting the jury trial for March 29, 2022. Defense counsel has

filed three motions to continue the trial, and the Court granted those motions, with the trial being currently continued to August 1, 2023.

3. Defendant received initial discovery from the government on January 20, 2022. The government continues to disclose discovery.

4. On 20 December 2022, Mr. Morgan-Derosier moved to suppress challenging the constitutionality of a search warrant and its execution. Initial briefing was completed on 27 February 2023. Beginning on 3 May 2023, a 2-day evidentiary hearing was held. After the hearing, the parties submitted additional briefing with the last brief filed on 8 June 2023. The motion is now submitted for a report and recommendation after which the parties will have 14 days to file objections before the Court can decide the motion. This timeline comes close to the 1 August trial date. Mr. Morgan-Derosier asserts a continuance is needed to avoid dedicating remaining time on the eve of trial to the motion rather than trial preparation. Moreover, the parties are attempting to negotiate a resolution to this case. Because of the uncertainty of the motion's outcome, negotiations cannot be finalized before resolution of the pending motion to suppress. Therefore, the interests of justice are best served with another continuance.

5. Defense counsel has advised the Defendant of this motion, its purpose, and constitutional and statutory right to a speedy trial under 18 U.S.C. § 3161 et seq. Defendant said he would consent to a continuance and has executed a written consent form, which is being filed contemporaneously with this motion.

6. Defendant is currently detained at the Cass County Jail in Fargo, North Dakota.

7. The Government, through Assistant United States Attorney Jennifer Puhl, does not object to this motion.

8. Due to the volume of evidence and number of witnesses, the parties expect trial to last two weeks. If the Court grants this motion, to ensure availability of counsel and their respective witnesses, the parties request the Court confer with the parties on a new trial date.

9. The undersigned, further, represents to the Court that this motion is made neither for purposes of undue delay nor other improper reason. Counsel makes this request for the Defendant in order to have the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

WHEREFORE, Defendant Nicholas James Morgan-Derosier, requests that the Court continue the trial to a date at least three months past August 1, 2023, and that all related pretrial deadlines be continued.

Dated this 20th day of June, 2023.

Respectfully submitted,

JASON J. TUPMAN
Federal Public Defender
By:

/s/ Christopher P. Bellmore
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